

**FILED**

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

NOV - 9 2005

*8/11  
CLARK*

\*\*\*\*\*  
\* STUART L. CORCORAN,

\* CIV. 05- *5700*

\* Plaintiff,

\* NOTICE OF REMOVAL

\* vs.

\* EMPLOYERS INSURANCE COMPANY  
\* OF WAUSAU,

\* Defendant.

\*\*\*\*\*

TO CIRCUIT COURT, SEVENTH JUDICIAL CIRCUIT, PENNINGTON COUNTY, SOUTH DAKOTA AND PLAINTIFF, STUART L. CORCORAN AND HIS ATTORNEY, MARK J. CONNOT OF GUNDERSON, PALMER, GOODSELL AND NELSON, LLP:

Defendant, Employers Insurance Company of Wausau, pursuant to 28 U.S.C. § 1446, gives notice of the removal of the above-entitled action from Circuit Court, State of South Dakota, County of Pennington, Seventh Judicial Circuit, to the United States District Court, District of South Dakota, Western Division. Defendant states the following in support of this Notice of Removal:

1. That on October 12, 2005, this action was commenced against Defendant by service of the Summons and Complaint with the Division of Insurance, State of South Dakota. The action was brought in Pennington County, Seventh Judicial Circuit, State of South Dakota. Service was made pursuant to SDCL 58-6-39. The Summons and Complaint are attached hereto and designated as Exhibits 1 and 2. Those pleadings were served on the Defendant along with discovery documents entitled "Plaintiff's First Set of Interrogatories to Defendant Employers

Insurance Company of Wausau" and "Plaintiff's First Request for Production of Documents to Defendant Employers Insurance Company of Wausau."

2. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1332 because Plaintiff is a citizen and resident of the State of South Dakota and Defendant Employers Insurance Company of Wausau is a corporation incorporated in the state of Wisconsin with its principal place of business in Wisconsin thereby being designated a citizen of the state of Wisconsin. Further, the amount in controversy, exclusive of interest and costs, exceeds \$75,000. Removal of this action to this Court is proper pursuant to 28 U.S.C. § 1441(a) and 1441(b).

3. Written notice of the filing of this Notice of Removal is being served electronically and by mail this date on Plaintiff's counsel or record, pursuant to 28 U.S.C. § 1446(d).

4. A true and correct copy of this Notice of Removal is being filed on this day with the Pennington County Clerk of Courts, Seventh Judicial Circuit, State of South Dakota, pursuant to 28 U.S.C. § 1446(d).

5. This Notice of Removal is being filed within thirty (30) days of service of the Summons and Complaint in accordance with 28 U.S.C. § 1446(b).

6. The affiant represents the Defendant and Defendant has agreed to the removal of this action and understands that all further matters herein should proceed in this honorable court.

WHEREFORE, Defendant prays that the action now pending in the Seventh Judicial Circuit, Pennington County, State of South Dakota, be removed therefrom to the United States District Court, District of South Dakota, Western Division.

Dated at Sioux Falls, South Dakota, this 9<sup>th</sup> day of November, 2005.

DAVENPORT, EVANS, HURWITZ &  
SMITH, L.L.P.

---

Michael L. Luce  
206 West 14<sup>th</sup> Street  
P. O. Box 1030  
Sioux Falls, SD 57101-1030  
Telephone: (605) 336-2880  
Facsimile: (605) 335-3639  
Attorneys for Defendant

**CERTIFICATE OF SERVICE**

Michael L. Luce, one of the attorneys for Defendant hereby certifies that a true and correct copy of the foregoing "Notice of Removal" was served by first-class mail upon:

Mark J. Connnot  
Gunderson, Palmer, Goodsell & Nelson, LLP  
P.O. Box 8045  
Rapid City, SD 57709

this 8<sup>th</sup> day of November, 2005.

---

Michael L. Luce